

REMARKS/ARGUMENTS

Claim 33 is newly added to recite a process of making a solvate form of olanzapine, as reflected in the originally filed claim 23. Claim 23 is accordingly amended to recite only a process of making a hydrate form, not a solvate form, of olanzapine. No new matter is added. Claim 25 has been cancelled through previously submitted Amendment. Claims 1-24 and 26-33 are pending in the present application. It is respectfully requested that the Examiner reconsider the rejection of the claims in view of the above amendments to the claims and the following remarks.

It is gratefully acknowledged that claims 1-8 and 26-32 are allowed.

Previously presented claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. According to the Examiner, claim 23 fails to set forth the metes and bounds of the claim due to the expression "a solvate or hydrate form of olanzapine." The specific reason for this rejection is not clear. To facilitate the prosecution, Applicants have now amended claim 23 so that it is only directed to the process of making a hydrate form of olanzapine, and add a new claim 33, which is directed to the process of making a solvate form of olanzapine. As to the terms of "hydrate" and "solvate", they are commonly used and understood in the art. Therefore, Applicants believe that the rejection of claim 23 as being indefinite has become moot.

Claims 9-11, 15, 16 and 18-24 are provisionally rejected under the doctrine of obviousness-type double patenting over claims 1-5 of copending Application No. 10/521,646. Please note that claims 1-5 in the copending Application No. 10/521,646 have been cancelled. Therefore, this double patenting rejection has now become moot.

Claim 23 is rejected under 35 U.S.C. § 112, first paragraph, as not being enabled by the specification. Specifically, according to the Examiner, the claim is drawn to a solvate, but the numerous examples presented in the specification fail to produce a solvate. As shown above, claim 23 has now been amended so that is directed to process of making a hydrate, not a solvate. As to the new claim 33, although it is directed to a process of making a solvate, contrary to the Examiner's statement, the present application provides specific examples of making a solvate of olanzapine using the isopropanol/water mixed solvate of olanzapine of claim 1 as the starting material (see Examples 8-12). Without the need of engaging undue experimentation, a person of ordinary skill in the art will be able to practice the present invention by dissolving the isopropanol/water mixed solvate of olanzapine according to claim 1, and crystallizing or precipitating the solvate form of olanzapine, based on the present specification. Therefore, it is respectfully requested that the rejection under 35 U.S.C. § 112, first paragraph be withdrawn.

Claim 12-14 and 17 are objected as being dependent upon a rejected base claim - - claim 10. As stated above, claim 10 is now in allowable condition, because the double patenting rejection of claim 10 has become moot. Accordingly, it is respectfully requested that the Examiner withdraw the objection of claims 12, 14 and 17.

Based on the foregoing, favorable consideration and a Notice of Allowance are earnestly solicited. Should the Examiner disagree, Applicant respectfully requests a telephonic interview with the undersigned attorney to discuss any remaining issues and to expedite the eventual allowance of the claims.

Please charge a fee in the amount of \$52 for the addition of a new claim in excess of 20 to our Patent and Trademark Office Deposit Account No. 03-2412. If any other fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412

Respectfully submitted,
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